



U.S. Department of Justice  
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September 21, 2015

Richard A. Fredericks  
750 Lawrence #2  
Eugene, Oregon 97401

Re: *United States v. Timothy Loren McCoy Fleming*  
Plea Agreement Letter

Dear Rick:

1. **Parties/Scope:** This plea agreement is between this United States Attorney's Office (USAO) and defendant, and thus does not bind any other federal, state, or local prosecuting, administrative, or regulatory authority. This agreement does not apply to any other charges other than those specifically mentioned herein.
2. **Charges:** Defendant agrees to waive indictment and plead guilty to Count 3 of an information charging him with transmitting a threat in interstate commerce, in violation of 18 U.S.C. § 875(c).
3. **Penalties:** Transmitting a threat in interstate commerce is a Class D felony punishable by a maximum sentence of five (5) years in prison, fine of \$250,000, supervised release term of three (3) years and special assessment of \$100. Revocation of supervised release could result in a sentence of two (2) years in prison.
4. **Dismissal of Charges:** The USAO agrees to dismiss all other charges and not bring any additional charges against defendant in the District of Oregon arising out of this investigation, known to the USAO at the time of this agreement.
5. **Sentencing Factors:** The parties agree that the court must use the 2014 version of the United States Sentencing Guidelines (hereinafter "U.S.S.G.") to first determine the applicable advisory sentencing guideline range, then determine a reasonable sentence considering that range and the factors listed in 18 U.S.C. § 3553(a). Where the parties agree that sentencing factors apply, such agreement constitutes proof to satisfy the applicable evidentiary standard.
6. **Elements and Facts:** Defendant admits that he committed the offense set forth in Count 3 of the information, more specifically that:

On or about January 30, 2015, in the District of Oregon, defendant knowingly communicated in interstate commerce threats to kill or injure a police officer by posting on Facebook a picture of himself holding a pistol along with the words --

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“Gotta full clip, sick of this shit, eatin that destroying angel mushroom, don’t push it bitch. Stash the salvation in my pocket, safety off, trigger finger cold and willing. Walk into Albany city hall, smile at the uniform as I pass him in the hall, turn round, Salvation speaks, a roaring sound, uniform goes down, no armor on the head makes a corrupt cop dead.”

7. **Base Offense Level:** The parties agree that the conduct in this case dictates a base offense level of 12, pursuant to U.S.S.G. § 2A6.1(a)(1). The parties are otherwise free to take any position on any guideline adjustments, enhancements or departures that may apply in this case.

8. **Acceptance of Responsibility:** Defendant must demonstrate to the court that he fully admits and fully accepts responsibility under USSG 3E1.1 for his unlawful conduct in this case. If defendant does so, the USAO will recommend an appropriate reduction in defendant’s offense level. The USAO reserves the right to change this recommendation if defendant, between plea and sentencing, commits any new or additional criminal offense, obstructs or attempts to obstruct justice as explained in USSG § 3C1.1, or acts inconsistently with acceptance of responsibility as explained in USSG § 3E1.1.

9. **Sentencing Recommendation:** The USAO will recommend a sentence at the low end of the sentencing guideline range, so long as defendant demonstrates an acceptance of responsibility as explained above. The defendant may ask for a sentence below the sentencing guideline range and the USAO may oppose that request.

10. **Waiver of Appeal/Post-Conviction Relief:** Defendant knowingly and voluntarily waives the right to appeal from any aspect of the conviction and sentence on any grounds whatsoever. Should defendant seek an appeal, despite this waiver of that right, the USAO may take any position on any issue on appeal. Defendant also waives the right to file any collateral attack, including a motion under 28 U.S.C. § 2255, challenging any aspect of the conviction or sentence on any grounds, except on grounds of ineffective assistance of counsel.

11. **Court Not Bound:** The court is not bound by the recommendations of the parties or of the Presentence Report (PSR) writer. Because this agreement is made under Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure, defendant may not withdraw any guilty plea or rescind this plea agreement if the court does not follow the agreements or recommendations herein.

12. **Full Disclosure/Reservation of Rights:** The USAO will fully inform the PSR writer and the court of the facts and law related to defendant’s case. Except as set forth in this agreement, the parties reserve all other rights to make sentencing recommendations and to respond to motions and arguments by the opposition.

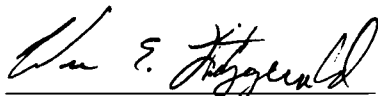
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13. **Breach of Plea Agreement:** If defendant breaches the terms of this agreement, or commits any new criminal offenses between signing this agreement and sentencing, the USAO is relieved of its obligations under this agreement, but defendant may not withdraw his guilty plea.

14. **Total Agreement:** This letter states the full extent of the agreement between the parties. There are no other promises or agreements, express or implied. If defendant accepts this offer, please sign and attach the original of this letter to the Petition to Enter Plea. Thank you for your professional courtesies.

Sincerely,

BILLY J. WILLIAMS  
Acting United States Attorney

  
WILLIAM E. FITZGERALD  
Assistant U.S. Attorney

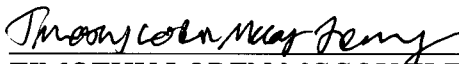
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I hereby freely and voluntarily accept the terms and conditions of this plea offer, after first reviewing and discussing every part of it with my attorney. I am satisfied with the legal assistance provided to me by my attorney. I wish to plead guilty because, in fact, I am guilty.

9-25-15  
Date

  
TIMOTHY LOREN MCCOY FLEMING  
Defendant

I represent defendant as legal counsel. I have carefully reviewed and discussed every part of this agreement with defendant. To my knowledge defendant's decisions to enter into this agreement and to plead guilty are informed and voluntary ones.

9-25-15  
Date

  
RICHARD A. FREDERICKS  
Attorney for Defendant